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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,661	02/28/2002	Elliot Brenhouse	7190-201	2308
27383	7590	07/24/2008		
CLIFFORD CHANCE US LLP				
31 WEST 52ND STREET				
NEW YORK, NY 10019-6131				
EXAMINER				
MALONE, STEVEN J				
ART UNIT		PAPER NUMBER		
3687				
MAIL DATE		DELIVERY MODE		
07/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/086,661

Applicant(s)

BRENHOUSE, ELLIOT

Examiner

STEVEN J. MALONE

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/24/2003

DETAILED ACTION

Response to Amendment

1. This communication is a Final Office Action rejection on the merits responsive to the amendment and arguments filed by applicant on April 18, 2008. Claims 5 and 7 have been cancelled and claims 1 and 16 have been amended. Claims 1-3, 6 and 8-16 are pending and have been considered below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3, 6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (US 6,497,361) in view of Swartz et al. (6,102,290).**

Regarding claims 1, 6 and 16, Mason discloses a customer self-checkout system for processing article purchases of articles, the system comprising: a self-checkout station 12 comprising:

an input device 38 configured to receive product code input designating an article for purchase;

a deactivation device 42 configured to produce a deactivation region effecting deactivation of a security tag 86 attached to the article for purchase; and

a prompting system 24, 34 configured to present a deactivation prompt to direct a user to position the article for purchase within the deactivation region to effect the security tag deactivation, wherein the prompting system is configured to present the deactivation prompt after the receipt of the product code by the input device;

but fails to explicitly disclose:

a sensor for sensing the presence of the article within the deactivation region;

a database system coupled to the self-checkout station and comprising stored data identifying articles having attached security tags and articles not having attached security tags;

a processor configured to receive product code input from the input device and to query the database to determine whether the article designated by said received product code input has an attached security tag; and wherein

the prompting system is configured to present the deactivation prompt when the article has an attached security tag and to (i) not present the deactivation prompt and (ii) present a prompt to ignore the deactivation area, when the article does not have an attached security tag.

Swartz et al. discloses a self-checkout, point-of-transaction system including deactivatable electro-optically coded surveillance tags including:

a sensor for sensing the presence of the article within the deactivation region (See Figure 9b, via a tag that is read and deactivated in the same region);

a database system coupled to the self-checkout station and comprising stored data identifying articles having attached security tags and articles not having attached security tags (See Claim 1, via a database for relating security tags to article identifiers);

a processor configured to receive product code input from the input device and to query the database to determine whether the article designated by said received product code input has an attached security tag (See Claim 1, via a control process for processing security tag data and item data); and wherein the prompting system is configured to present the deactivation prompt when the article has an attached security tag (See the Abstract, via verification if a security tag needs to be deactivated) and to (i) not present the deactivation prompt and (ii) present a prompt to ignore the deactivation area, when the article does not have an attached security tag (See Figures 9-10, via multiple scenarios of security tag deactivation and detection) .

Mason and Swartz both teach self-checkout systems.

Therefore, it would have been obvious to one having ordinary skill in the art to modify the self-checkout system of Mason to include using a database for determining whether or not an item has a security tag and for activating a deactivation device as taught by Swartz et al. in order to allow customers to

remove security tags of purchased items in a self-checkout system (See col. 3 of Swartz et al.).

Regarding claim 2, in the system of Mason the prompting system is configured to present an initial prompt directing a user to enter a product code using the input device.

Regarding claim 3, the system of Mason further comprises: a target 36 visibly disposed proximate the deactivation region at the checkout station; and wherein the deactivation prompt instructs the user to move the article to touch the target to effect security tag deactivation.

Regarding claim 8, the system of Mason further comprises a bagging platform 44 and a scale 40 operatively coupled to the prompting system and configured to detect weight of bagged articles; and wherein the prompting system is configured to present the deactivation prompt when a weight change is detected by the bagging scale and the sensor has not sensed presence of the article within the deactivation region, but the scale of Mason is arranged to detect, the weight of the bagged articles prior to the articles being placed into the bag, thus the bagging platform 44 does not comprise the scale 40. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Mason so as to place either the scale, or else a second scale, under the bagging area 44, in order to confirm that the weight of the articles placed into bags would be the same as the weight of the articles that were scanned, for security purposes, merely as a matter of design choice, since so doing could be done readily and easily by any person of ordinary

skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 9, in the system of Mason the prompting system is configured to present a bagging prompt providing instructions to a user to place the article into a bag on the bagging platform 44.

Regarding claim 10, in the system of Mason the bagging platform further comprises a bag holder adapted to hold a bag for receiving articles.

Regarding claim 11, in the system of Mason the prompting system is configured to present a feedback prompt to confirm deactivation of the security tag after the sensor senses presence of the article within the deactivation region.

Regarding claim 12, in the system of Mason the feedback prompt comprises a prompt instructing the user to place the article in a bag.

Regarding claim 13, in the system of Mason the input device comprises a device selected from the group consisting of a bar code scanner, a scanner-scale module, a touch-screen display, and a keypad.

Regarding claims 14 and 15, in the system of Mason the deactivation prompt comprises an animated/audio prompt provided by an audio device.

Response to Arguments

4. Applicant's arguments with respect to claims 1-3, 6, and 8-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kawai et al. (6,719,202) teaches a commodity information management system.

Andersen et al. (20020011933) teaches a security tag deactivation system.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **STEVEN J. MALONE** whose telephone

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number is (571)270-5107. The examiner can normally be reached on Monday-Thursday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3687

SM